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June 7, 2006

Representative John Stahl, Chair  
House Family and Children Services Committee

Re: HB 5908 and HB 5909

Dear Representative Stahl:

I write to urge you and other Committee members of the House Family and Children Services Committee to not act on HB 5908 and HB 5909. I do so as an individual, not on behalf of any group or organization. But I do so based on my experience as a licensed Michigan Attorney, licensed Michigan Social Worker and having served over 10 years as the Executive Director of the Michigan Federation for Children and Families.

I believe passage of these bills as introduced will not benefit Michigan's families and children; Michigan's taxpayers; or the private non-profit child and family service agencies who are valuable participants in the State's efforts to serve the needs of children and families. **Among the reasons I believe it would not be good policy to enact these Bills are:**

**1) The language in the Bills may be more encompassing than intended.** The House Legislative Analysis on these Bills says that "child placing agency" as used in HB 5908 means a private organization licensed under the Child Care Licensing Act to place children for adoption. I found nothing in either HB 5908 or HB 5909 as introduced that limited the definition of "child placing agency" as defined in the Child Care Licensing Act. That definition, found at MCL 722.111c, defines "child placing agency" as "a governmental organization or an agency organized pursuant to the nonprofit corporation act – for the purpose of receiving children for their placement in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation of applicants for adoption and the investigation and certification of foster family homes and foster family group homes as provided in this act."

I believe the Bills authors' intent may have been to limit the provision allowing a "child placing agency" to not participate in a "placement" that violates the child placing agency's written religious or moral convictions or policies to situations involving

adoption services. However, under the definitions as I read them this provision could also apply to other “placements” including foster care placements. The licensing rules for Child Placing Agencies define “Placement” as “moving a child to a foster or adoptive home, to independent living, or from out-of-home placement to another out-of-home placement. If this legislation is intended to apply to all placements it needs to say so clearly to allow for discussion on broader implications.

Even with the definition of “child placing agency” including “a governmental organization” it is hard to imagine that a “governmental organization”, meaning the local courts or DHS in this case, would be able to refuse to participate in a “placement” of children in certain instances based on religious or moral convictions but the Bills also allow denial of services based on the agency’s written “policies”. This is pretty broad language and it is feasible a governmental agency would be pressured to develop “policies” to exclude certain “placements” which would likely be challenged by those denied services.

**2)Enactment of the Bills as written may result in loss of Federal funds for serving children and families in public adoption and foster care services and increase the costs to Michigan taxpayers for these services.** The House Legislative Analysis says the bills would have no fiscal impact on the state or local units of government or on the judiciary. I am not so sure this is true.

The State currently is reimbursed with Federal matching funds (approximately 50% of the costs) for Adoption services and Foster Care services provided by the State and Child Placing agencies the State contracts with to serve these children and families. It is questionable that the Federal Government would permit use of these Federal funds by agencies that would have the right to refuse to provide services to a family or child based on religious or moral convictions or policies based on those convictions. It is quite possible the State, through DHS which contracts with child placing agencies to provide these services, would be placed in a position of having to continue to contract with an agency that refused to provide services to otherwise qualifying families and children based on agency written religious or moral convictions or policies while having to forgo use of Federal matching funds and thereby increase the costs to the State general fund and taxpayers to pay for these services.

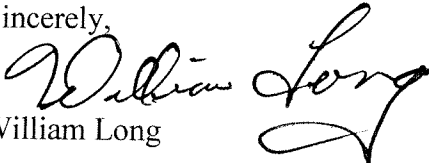
**3) Passage of the proposed legislation is highly likely to result in litigation. The above examples of probable issues are quite likely to result in lawsuits which are costly to taxpayers to defend.** Questions such as does the law apply to foster care and other placement decisions and contracts as well as adoption? Can Federal funds be used by agencies that have contracts that refuse to serve certain individuals based on moral or religious convictions?

Lastly, I believe the vast majority of private nonprofit agencies choosing to contract with the State to provide services to families and children in foster care and special needs children seeking adoptive homes, whether secular or non-secular, have been able to accommodate their mission and values with the services they provide through these

contracts. The few that may not be able to do so are not likely to seek these contracts. In summary, I believe the joint public- private partnership of providing services to children and families involved in the public foster care and adoption systems serves Michigan's citizens well as is. I think the proposed legislation would not enhance that service and could lead to more confusion and disruption of that public- private partnership to the detriment of the children and families it is intended to serve.

Thank you for considering my comments as you review these Bills.

Sincerely,

  
William Long

Cc: Committee Members: House Family and Children Services Committee

